

Summary Minutes
Special Sedona City Council Meeting
City Council Chambers
Wednesday, May 12, 2010, 5:30 p.m.

1. **Call to Order/Pledge of Allegiance:** City Clerk Randy Reed called the meeting to order at 5:30 p.m.
2. **Roll Call.** Councilor Pud Colquitt, Councilor Jerry Frey, Councilor Nancy Scagnelli, and Councilor Dan Surber. (Mayor Rob Adams, Vice Mayor Cliff Hamilton and Councilor Mark DiNunzio were excused.)

Motion: Councilor Colquitt moved to have Councilor Frey chair the meeting. Seconded by Councilor Scagnelli. Vote: Motion passed four (4) in favor and zero (0) opposed.

3. **Discussion/Possible Action regarding the City of Sedona's position on SB 1070 and HB 2162 (State Legislation concerning enforcement of immigration laws). Discussion may include passage of a resolution or motion setting forth the City's position on this legislation. Discussion may also be held in executive session upon a vote of the City Council Per A.R.S. §38-431.03(A)(3) and/or (4) to obtain legal advise on this issue and/or to consider the city's position concerning possible contemplated litigation in connection with this legislation.**

Councilor Frey opened it to the public at 5:32 p.m.

Linda Rachel, thanked the city for allowing the citizens to have an opportunity for civil discourse on this subject. "We need to begin with the end in mind." When she saw this bill she asked herself what the intended outcome is. She went to the Senator's web site and she explained her purpose for voting for the bill. As she read through it she asked herself how the provisions of the bill would address border security and how it would reduce crime. She asked if there would be unintended consequences. In looking around the room, most of us are descendents of people who were undocumented, at least years ago. This state is no stranger to controversy and hard stands. We're known for taking strong stands. We didn't support Martin Luther King Day. The woman who spoke yesterday said she came to work and she came for a better life. Her children are citizens. What would happen to them if something happens to her?

Bobbie Surber, Sedona, thanked Council for continuing the dialog on SB1070. You have personally received emails of visitors cancelling their trips to Arizona. Anti-immigrant sentiments have become an easy tool for re-election. The only genuine attempt was in 2005. If we want to cure the border issue we need to insist that our federal government create a moderate bill that reflects the rights of people living in the U.S. Arizona will lose untold money of lost tourism. Our local police will be forced to arrest people in Sedona who are trying to make a living. Will it get drug dealers off our streets? Will it create a safe border? She doesn't think so. It will target people who have been living here for years. She's proud of her family's Mexican-American heritage and she's proud of her neighbors. They are a part of the fabric of our life in Sedona. The Latino community in Sedona deserves to be treated with respect that's afforded all citizens in Sedona. She'd

like to thank our Latino community for stepping out. Fight to protect our borders but please voice your disapproval for SB 1070.

Marissa Surber, Sedona, stated she's here to bring awareness to an effect on SB1070 that's often not addressed. In her years of school she's seen too many peers and friends uprooted and sent to a country they didn't know. They were told America is land of dreams and life will be better. She asks that Council will pronounce that Sedona is against SB1070. Most if not all illegal immigrants come to America with the promise of a better life. In many past generations America has given them everything she preaches to provide. We are all fearful of the future, but she can't imagine the experience of waiting to see if you're going to get sent away. The Latino community is being attacked. This law is proving that history repeats itself. She asks Council to speak against SB1070.

Stephen Williamson, representing DORR, stated part of his family came up from Monterrey Mexico in the 1840s. The U.S. like all countries has the right to reasonable control of its borders. Arizona law 1070 is an extreme, irresponsible and unconstitutional response to illegal immigration. The law involves racial profiling. The last minute change of language to "not using racial profiling" is an attempt to hide the unconstitutionality of the law. "Reasonable suspicion or probable cause" is an attempt to weaken the constitution. Making the law less obvious and less honest doesn't improve the law. Not a single democrat voted for this law and for good reason. DORR opposed 1070 and joins the democratic resolution in opposing the bill. As someone who works in the tourist industry full time, for every group that is publicly making a demonstration against opposing the bill there is someone on their board or somewhere with Hispanic background. It takes very little for someone to say "let's not go to Arizona."

Don Troutman, Sedona, stated he knows we have a problem with immigration but 1070 isn't the answer. Our borders should be secured and that should be the federal government's responsibility. These people come to America to seek a better life like many of us did. His wife and her family came from Germany. We can't punish people for trying to better themselves. They just want to work. They pay taxes and are honest people. Our hotels and restaurants will be greatly affected by this bill and this will hurt tourism. He agrees with Councilor Surber that we cannot single out a group of people. It's racial profiling no matter how you look at it. He's opposed to this bill and he urges Sedona to stand behind Councilor Surber. Branson Missouri imports people from Russia to work in their tourism industry. If this bill goes in affect, a lot of the Mexicans will leave town and we'll all hurt.

Doreen Slevin, Sedona, stated she didn't know we were a sanctuary community. The prior boards that served this community decided not to take a stand. This country was founded on laws. We've welcomed immigrants all our lives, but most people came through the front door. She'd love to have everybody come here and live here but we cannot support the world. We have to take care of the laws this country was founded on. This law is only a carbon copy of the federal law. Lincoln freed the slaves, Obama is enslaving the aliens by having them come in the back door and have companies give them the lowest wages possible. She'd like to see them come through the front door and go through the necessary steps of becoming a citizen. If the federal government would enforce this Arizona wouldn't have to take this step. Anyone who wants to come to this country should do it legally. Most people find that laws are important to any government.

This is a way to wake up everybody and tell the federal government to do its job and close the borders. We're a country of charity and we want everybody to get ahead, but we don't want to get stepped on.

Jessica Williamson, Sedona, stated there are good laws and bad laws. This is a bad law. It's un-American, in its targeting of a specific group of people entirely on their color. It's racial profiling. It was drafted by an immigrant hate group and it has no place in Arizona. She looks around this room and she sees families, hard working people. She sees people that pay taxes and contribute to the local economy. These are people who are part of this community. They've been here much longer than she has. Many people in Sedona are much more recent residents than many Hispanics in Sedona. She urges Council to do the right thing that doesn't discriminate based on a person's race.

David Leman, Sedona, stated people who live within 60 miles of the border have been terrified for years and have begged for something to happen. In the past two years, one rancher has found 17 dead bodies. Another rancher testified drugs are being transported across his property in military fashion. These people are violent and will kill anyone who gets in their way. The border patrol isn't on the border. They're not allowed to use force in stopping anyone who's entering. Our federal prisons have over 35% illegals. In the past 2 years 80% of our law enforcement killed or wounded has been by illegals. Ranchers told us they have seen a change in people coming. The Federal government has refused for years to help the border states. We do not have the money to care for anyone here illegally. The border has to be secured. The media has distorted what SB1070 will do, it will not set up a Nazi Germany. Federal law is very clear. We need to save America.

Ted Jones, Sedona, stated he's a legal resident. He agrees with the last gentleman and Doreen. He's addressing this to the lame ducks. He doesn't want to see them do anymore damage. His wife and he are celebrating their 30th anniversary and they went to Mexico. They went to Mexico City. One morning they heard a lot of commotion, there were a lot of people. He called the front desk and asked what's going on. They said these are the people waiting in line at the embassy to get a green card to go to America. You can't change any minds. He's standing here because enough damage is enough damage. He has a concern that Councilor Surber is connected to the school board. Thank God he doesn't have any grandchildren going to school here. He wouldn't want his grandkids going where people support illegal immigration. He understands why illegals are here, but a rule is a rule.

Gitangelique Sani, stated she's a citizen. She's lucky to be born in the U.S. and has always believed in the respect of human rights. She comes from a stream of cultures that has made her who she is today. Her mother was born in Mexico and her father in India. Both are now U.S. citizens. She's enraged and disgusted with SB1070. Hatred and prejudice aren't justifiable by any means. If you are willing to allow this degree of separation to be passed, SB1070 will tear families apart. The country's economy goes down without laborers. Mexicans aren't terrorists. What if Native Americans had passed SB1070 in 1492, none of you would be sitting here debating this. Don't tread on us. It's time to say yes we can put an end to all this unethical behavior and prove to everyone that we are a united states and not a divided states. We have become a melting pot of different cultures meshed into a unified country we can be proud of. Stand up for human rights and equality. We all came from somewhere. President Obama wants peace.

David Hartlerode, stated there is an issue on the borders but it's not right to tear up the constitution. It's without question that this bill instigates, promotes and supports racial profiling. He was in Flagstaff last week. He was excited to see the Flagstaff Council was unanimous in going against the bill. He called the city and said maybe this can happen in Sedona also. Racial profiling is so wrong. He's convinced that if this goes to court, the Supreme Court will kill that bill in an instant because racial profiling is not stood for. He asks Council to take action against this bill.

Natalia Molina McKendry, Chair of the Cultural Diversity council of the Verde Valley, thanked Councilor Surber for bringing this issue to the table. She supports immigration reform that is fair, just, and humane and supports a robust economy. The secondary name of 1070 is to support law enforcement and create safe neighborhoods. This bill does the contrary. The police forces are overburden and have been cut back. Now more than ever they need everyone who lives here to report crimes including human trafficking, drug abuse and domestic violence. This law pits law enforcement against those they're trying to work with. It also promotes psychological terrorism. Many people say this is not what happened in Nazi Germany, this is in fact what happened in Nazi Germany. The Governor banned elementary schools to teach classes catered to other cultures. This will also hurt the economy. We cannot afford this in all factors. She asked Council to take action against this.

Florencia Gaspar Marquez, stated she's representing the Hispanic community. Members of Council we're here to meet with you because we'd like for you to listen to our petition. We don't want SB1070 to be taken to its fullest action. Hispanics are working people. We're not murders, robbers, only workers. That's why she's here. She's here to ask you that you speak on our behalf so that law doesn't do any damage to us. That's all she can say and thank you for listening.

Mary Anne Mills, Sedona, stated we spend the least amount of money than any state on education, but our Governor signed legislation that puts a huge financial burden on our state. If she was so sure she was signing good legislation, why did she change it a week after signing it. Have we forgotten we welcomed millions of guest laborers in 1942. We did this to fill labor shortages left by our men serving in WWII. She's tired of hearing illegal immigration, illegal alien. Why can't we say undocumented immigrants. They're human beings. They have the right to seek a better life. They enrich the cultural fabric of our society and they strengthen our nation. Many came here legally and then overstayed their visas. We don't have enough people to do the work that our country needs. Immigrants are a vital part of our economy and they deserve a path to citizens to fill vacant jobs. We have to have a humane approach. This legislation isn't rational or humane. We can't just send them all away.

Carol Rizzi, stated she's a child of immigrants. There wasn't SB1070 then, it was Ellis Island and they were documented. We can't afford not to enforce SB1070. We can't afford to sustain immigration. We need to do something and this is a start. She can understand the desire to be in the U.S. But it has to be done through the front door. We can't afford this any longer. She doesn't want her funds used in a lawsuit going against SB1070. It would be wrong. We are trying to give meat to our law enforcement agents to

enforce a federal law. The federal government hasn't done their part. This bill gives our state the meat that it needs in order to do this.

Yolanda Sani, stated she's a citizen of the U.S. When she first came she lived in Massachusetts. There were Greeks, Italians, Jews, Hispanics, Africans and Indians. We all got along fine. We all contributed to the economy. The multi-ethnicity is what makes this country strong. The great achievements in this country are in politics, education, arts, finance. As we were trying to make our voices heard last week on 89A, a white man yelled at us saying if we weren't born in this country, we were nobody and we should go back to Mexico. This is the example of hysteria that the bill is creating in the minds of people. The Hispanic community pays their share of taxes. They pay their bills responsibly and in a timely fashion. SB1070 has created chaos. It's a law that was created for political reasons but it's created unforeseen consequences in this country. The law is encouraging disharmony, confusion amongst the citizens. She urges Council to do everything they can to revoke 1070.

R.W. Worrel, Sedona, stated he'd like to apologize for the American people for letting our borders get this way. We're not able to invite people in so they can live like Americans like we have. His apologies go out to the illegals for getting to this point. It should have never happened. This is not the republic of Sedona. What in the name is the Council thinking to discuss 1070. Those who live here are governed by local, state and federal laws. We can't wait to see the headlines in the Sedona Red Rock News, "1070 opposed by City Council" for what? The mighty tourist dollar. Sedona must and will abide by the laws mandated by the state in order to clean up the illegal immigration problem. Visa violators represent half of the illegal immigrants presently living in the U.S. Profiling shouldn't be tolerated. All Americans should be in support of this bill. When Americans visit foreign countries they are expected to abide by the laws. Illegal immigration is costing the city, state and federal government trillions every year. We all should be enjoying the fruits of this country, no matter what race, color or origin. Love it or leave it, it's your choice. Those who want to live here come on over, just do it legally. He's all different colors but down deep he's red, white and blue.

Dennis Rayner, stated he's not a lame duck but he hasn't been sworn yet. He's strongly opposed to 1070. It's undemocratic and encourages racial profiling. We need comprehensive immigration reform. He calls on the federal government to step up and do their job. This shouldn't be in the domain of the state.

Peggy Chaikin, Sedona, thanked Council for brining up the issue. It deserves civil discourse. This law has grown out of fear and frustration. She can see how people are afraid of the bad people who have come into the country who are criminals. This law will affect our quality of life and the quality of life for people who live here who aren't legal citizens. If they happen to come from Canada or Great Britain or Germany, they can drive their car through town and no one will give it another thought. A friend of hers with dark skin was followed by a police car. He's put off. She knows someone else who didn't want to tell that her sink wasn't working. There's a culture of fear happening. Sedona needs to join Flagstaff and Tucson because where she grew up in NYC she grew up with people who had numbers tattooed on their wrists.

Jerry Gatto, stated he's a first-generation Italian American. His brother is married to a Cuban American. We've heard a lot of rhetoric about what the law says. Let him read to him the crux of why we're all here. Section B says for any lawful stop, detention or arrest made by a law official in the enforcement of any other ordinance, where reasonable suspicion exists and the person is an alien, a reasonable attempt should be made to determine the legal status of the person. That's why we're here today. The law specifically states a law enforcement official may not consider race, color or national origin. He was in federal law enforcement for 27 years. He enforced racial profiling laws and civil rights laws. This law, as it's written, there's nothing to suggest that that it's in the law. He implores Council not to spend our city money for your self aggrandizement. Make your own determination exactly as it's written.

Gregg Ensminger, Sedona, read from his letter *"When SB1070 was passed and signed into law, its supporters claimed that no racial profiling would be tolerated. The Legislature even amended the law to say that racial profiling would be illegal under the terms of this new law. The only problem is that racial profiling was already illegal, though as most of you know, that hasn't stopped such profiling from occurring. So why do we need to tell police to obey an existing law, when that is precisely what should have been expected of them all along? And why are we targeting the immigrants, when the root cause of illegal immigration are the smugglers, or 'coyotes,' who take advantage of people that are merely trying to escape a bad situation in exchange for a better life? Since many would-be immigrants are suffering, for one reason or another, as residents of Mexico, but can't get into the U.S. legally, they feel they have no choice but to get smuggled in by coyotes. Todd Andrew Barnett, of the Associated Content online news service, reports that coyotes prey on would-be immigrants, by charging them an arm and a leg for getting them into the U.S., then forcing them to work in labor camps, making or selling illegal drugs just to work off the debts. Of course, immigrants who refuse or try to run away are turned in to the INS, assaulted, or killed. Unfortunately SB1070 does nothing to resolve this issue. The bottom line is, whether you agree or disagree with the spirit of SB1070, this new law is ineffective, redundant, and unconstitutional. It can serve no purpose other than to provide this state with bad P.R. It gives the rest of the nation the impression that Arizona hates Hispanics, yet the law will provide nothing good in return. Even if no racial profiling occurs as a result of the law, it has already made people afraid to call the police for help, for fear that they might end up being targeted by the INS. The law is so vague in its definition of 'reasonable suspicion,' that it is impossible for innocent people to know for certain that they have nothing to worry about. So why support a law that will, no doubt, do more harm than good? Already, people have been calling on conventioners, businesses, and sports or entertainment organizations to boycott Arizona. And of course, Sedona, whose economy relies heavily on tourism, will suffer greatly as a result of the Legislature's and Governor's ill-advised decisions. But if this Council passes a resolution which at least denounces the new law, perhaps Sedona will be exempt from the backlash that the rest of the state is receiving."*

Mike Ward, Sedona, stated we've heard a lot of impassioned pleas today. Arizona has been forced to bear the brunt of illegal crossings in the U.S. We have one of the fastest growing illegal populations in the U.S. It's estimated that illegal immigrants compose 12% of workers in Arizona. The reason is our economy needs them. Most are hardworking honest people. One out of six students in our schools is the children of illegal immigrants. One-fifth of those living here illegally are living in poverty. They are working in the under economy or take jobs that don't pay well and are working for low salaries. One-third of the households of illegal immigrants use a welfare program. Our

immigration laws are broken. We need to pressure Washington to come up with an immigration plan more appropriate to Americans. He urges Council that because about 70% support this bill, whether they understand it or not, if you pass it, you'll add divisiveness. Maybe we need to pass a resolution sending a letter to our Washington delegation saying we need policies that work for our state. If all the cities sent those letters maybe they'd do something constructive and get something done.

Councilor Frey closed the public portion at 6:41 p.m.

Mike Goimarac stated we've provided the contents of the law in your packet. We gave you a copy of the resolution passed by Flagstaff authorizing litigation to be performed. This is an area that's disputed. It's an area of unsettled law regarding issues of preemption. It hasn't been tested yet in any state. He doesn't have a lot to add to that. He doesn't purport to be an expert in federal constitution laws.

Councilor Surber asked Tim Ernster what we're doing as far as a dialog with organizations within the community.

Tim Ernster stated we haven't had any formal dialog in the community. We were waiting for attorneys to evaluate the legislation and get a better handle on what it means.

Councilor Colquitt stated there are a couple of terms that come up like probable cause. Can Jim Driscoll give a definition of probable cause as well as profiling?

Jim Driscoll stated several terms come into question. Probable cause is what a reasonable officer would believe that a crime at any level has occurred. It's a reasonable officer's belief that a crime had occurred. Profiling is seeking out a certain type of individual by race, ethnicity, and skin color, there's a variety of other appearances, like clothing, where that type is targeted for some type of activity. There's another term: reasonable suspicion. That's when it's not enough to arrest. It's circumstances to cause a reasonable officer to believe there is something illegal going on. It's not enough to make an arrest but it's enough to detain and initiate investigative activities. Reasonable suspicion is necessary to make a stop. You would develop information as you made the traffic stop by obtaining a license, registration, insurance in determining who that person was.

4. Following any discussions in executive session of the above matters, the City reserves the right to discuss and/or act on any of the above listed legal matters in open session.

Motion: Councilor Surber moved to go into executive session at 6:50 p.m. Seconded by Councilor Scagnelli. Vote: Motion carries unanimously with four (4) in favor and zero (0) opposed.

5. Return to open session. Discussion/possible action on executive session items.

Motion: Councilor Scagnelli moved to come out of Executive Session at 7:02 p.m. Councilor Surber seconded. Vote: Motion carries with three (3) in favor and zero (0) opposed. One abstained. (Councilor Frey abstained).

Mike Goimarac read the admonishment statement.

Councilor Scagnelli stated it's refreshing to see a different group of people out tonight. She's lived here 37 years and has a lot of friends in the Latino community. She's aware of the divisions in the town. As our packet pointed out, this is an unprecedented law. There are some misconceptions. She was guilty of some until she read it. It's bringing us bad press. This bill does nothing for border security. We all agree we need border security. We need to know who's in our country. It's not going to stop the violence or drug struggling. It's a little approach to a big problem. Most of us agree we need comprehensive immigration reform and this bill doesn't do it. It will have unintended consequences. The first thing that came to mind is Nazi Germany. It will have devastating effects on families. There are families where some of the kids were born here, maybe all the kids are. It will have devastating impacts on the wrong people. She's opposed to it. Diversity is our strength in this country. Immigration is a strength.

Councilor Surber thanked everyone for coming tonight and having a civil discussion. His motivation was to get the public out and hear all sides. There was no self-gratification. It was the obligation for the city to start the dialog and let everyone state their feelings. This will be the first of discussions because we are an outgoing Council. The bill is divisive. The bill will affect the community economically, legally and socially. Legally we'll be putting our police department in a no-win situation where they are being too aggressive or not doing enough. We'll allow a segment of our community to be singled out and blamed for drugs and crime. It will create an atmosphere of fear and anger. It's not the solution to the problem. He would urge the current Council and incoming Council to oppose SB1070.

Motion: Councilor Surber moved to recommend that the city of Sedona oppose SB1070 and HB2162 and recommend to city staff and incoming Council to prepare a resolution stating in part whereas during this time of extreme economic distress, where the city of Sedona has seen a decline in revenues and a reduction in city resources; SB1070 constitutes an unfunded mandate by the state of Arizona to carry out Federal immigration enforcement responsibilities and also recommend that the incoming City of Sedona Council, the City of Sedona legal department and police department continue to have an open and public dialogue with the entire Sedona Community and draft a letter to our governor and state government representatives that we would like them to pursue comprehensive and humane immigration reform. Seconded by Councilor Scagnelli. Vote: Motion carries three (3) to zero (0) with one (1) abstaining (Councilor Colquitt abstained).

Councilor Frey thanked everyone tonight. This is a divisive issue, everyone was very polite tonight. He appreciates that because some meetings you wonder if there will be a fist fight. He supports the motion tonight and he doesn't have any problems with the bill. He supports it because the community came out tonight in force. Sedona has been involved with every typical political situation since it was incorporated. The new Council can take these recommendations or not. He's doing this because Councilor Surber and his family are wonderful. He's doing this for the respect he has for Councilor Surber.

Councilor Colquitt stated she's not opposed to this bill or afraid of it. She's going to abstain. She's not to going to vote.

6. Adjournment: Councilor Frey adjourned the meeting without objection at 7:13 p.m.

I certify that the above is a true and correct summary of the Special City Council Meeting held on May 12, 2010.

Alison Carney, Recording Secretary

Date